

HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 15681 of 1996

DATED: 19-12-2006

Between:

Pasala Purushotama Rao

...Petitioner

and

The District Collector,
Nellore and another

...Respondents.

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 15681 of 1996

ORAL ORDER:

The petitioner is aggrieved that the respondents, in particular, the 1st respondent is refusing to acknowledge the caste certificate dated 9-11-1992 issued by the 2nd respondent in proceedings bearing Ref.R.Dis.No.5250/92. The petitioner is also aggrieved that the 1st respondent is insisting that the petitioner produce the latest caste certificate, for considering his appointment as Junior Assistant.

The petitioner was issued a community certificate dated 9-11-1992 certifying him as belonging to Samban community included in the list of Scheduled Caste at Sl.No.44. The petitioner asserts that his father and grand father belong to the said community; that he completed his entire school education, Intermediate, B.Com., and M.Com., as a Scheduled Caste candidate; that he has documents in support of his assertion; that he also got himself registered with the Employment Exchange, Nellore on 28-6-1986 as a Schedule Caste candidate and his registration was being renewed from time to time.

The respondents requisitioned the Employment Exchange to sponsor candidates for filling up the backlog vacancies of Junior Assistant in Group IV Services reserved for Schedule Castes and Scheduled Tribes. The petitioner was sponsored by the Employment Exchange, Nellore pursuant to the requisition. He attended the written examination conducted on 23-3-1996 and passed the examination.

He was called for an interview by the District Selection Committee on 23-6-1996. At the time of interview, he produced the caste certificate dated 9-11-1992 issued by the 2nd respondent along with other certificates with regard to his qualifications and the like.

The result of the selected candidates was published in the daily Newspapers on 26-6-1996. The list so published showed the petitioner's name (Hall Ticket No.35834) in the list of selected candidates reserved for Scheduled Caste for the post of Junior Assistant pertaining to Group IV services backlog vacancies of 1996, but with a superscription that the appointment is withheld for want of production of the original caste certificate issued by the Revenue Divisional Officer. The petitioner thereafter approached the 1st respondent and produced the original caste certificate dated 9-11-1992. The 1st respondent however insisted that the petitioner produce the latest caste certificate.

The petitioner thereafter submitted a representation on 5-7-1996 to the Commissioner for Social Welfare, Hyderabad complaining of the 1st respondent's action. It is pleaded that the Commissioner for Social Welfare issued a letter dated 6-7-1996 to the 1st respondent stating that as per G.O.Ms.No.39, Social Welfare (J1) Department, dated 2-4-1996 'till the permanent integrated Caste Certificates prescribed by Revenue Department come into force, the Certificates last obtained by the candidates will be valid and they need not obtain fresh Certificates even though the Certificates currently available with them may be older than six months from the date of issue'. The petitioner approached the 1st respondent and submitted a copy of the letter dated 6-7-1996 issued by the Commissioner for Social Welfare. However, the 1st respondent declined to accept the petitioner's caste certificate dated 9-11-1992 and persisted that he should produce the latest caste certificate.

On the aforesaid allegations and seeking the appropriate relief, the writ petition is filed.

The writ petition was filed on 5-8-1996. No counter-affidavit has been filed by any of the respondents despite passage of more than a decade since the institution of the writ petition.

By an interim order dated 7-8-1996 this Court directed the respondents to give effect to the orders of selection with respect to the petitioner on the basis of the Caste Certificate dated 9-11-1992 by preserving liberty to the respondents to conduct such enquiry as they consider appropriate into the genuineness or otherwise of the Caste Certificate so furnished by the petitioner.

The learned Government Pleader for Social Welfare appears today on behalf of the respondents and admits that no counter-affidavit has been filed on behalf of the respondents. He also has no instructions as to whether the Caste Certificate produced by the petitioner has been subjected to any verification and what has been the result of such enquiry, if any.

On behalf of the respondents, there is nothing on record to enable this Court to verify the reasons why the 1st respondent declined to accept the caste certificate dated 9-11-1992 issued by the 2nd respondent.

In ***R. Kandaswamy v. Chief Engineer, Madras Port Trust***^[1], the Madras Port Trust declined to accept the community certificate of the appellant dated 10-3-1987 issued by the Tahsildar, Mambalam for considering his appointment as a Mazdoor in the Madras Port Trust. Pursuant to a call for interview, the appellant had appeared before the Port Trust and produced the relevant documents including the

Community Certificate issued by the Tahsildar dated 10-3-1987. The Port Trust declined to accept the certificate and required him to produce latest original community certificate from the Revenue Divisional Officer. The appellant thereupon preferred a writ petition before the High Court of Madras. On referring to a Madras Government order dated

11-11-1989, the learned Single Judge of the Madras High Court dismissed the writ petition. The appellant unfruitfully preferred a Writ Appeal. An appeal was thus preferred to the Supreme Court. The Supreme Court considering that the Government had on 3-4-1991 issued a circular to the Collectors of various districts in Tamil Nadu that 'the permanent Community Certificate issued to Scheduled Tribes by Tehsildars up to 11-11-1989 is valid', held that whereas a Community Certificate after 11-11-1989 is required to be issued by the Revenue Divisional Officer, but the Community Certificates issued prior thereto by the Tehsildar are valid certificates, and therefore, the Port Trust was not correct in insisting upon a fresh certificate issued by the Revenue Divisional Officer to be produced by the appellant for considering candidates for appointment to a post reserved for Scheduled Castes and Scheduled Tribes. The appeal was accordingly allowed and the Port Trust directed to consider the community certificate issued to the appellant by the Tehsildar, which had already been produced before the Port Trust by the appellant.

In the case on hand, the Commissioner of Social Welfare had issued the letter dated 6-7-1996 clearly stating that the certificate earlier obtained by the candidates would be valid and they need not obtain a fresh caste certificate. The petitioner's assertion and allegation that the 1st respondent had declined to consider the community certificate issued by the 2nd respondent (on 9-11-1992), has not been denied in any pleadings filed on behalf of the respondent. Thus the wholly arbitrary and irrational conduct of the

respondents as alleged by the petitioner remain un-traversed. The inference is therefore, compelling that the conduct and action of the respondents, in particular the 1st respondent in declining to accept the community certificate, is illegal and arbitrary and without a justification whatsoever. The petitioner has suffered a legal injury and therefore, he was constrained to approach this Court.

In the aforesaid circumstances, the writ petition is allowed. The conduct and action of the respondents, in particular, the 1st respondent in declining to consider and act on the basis of the community certificate issued by the 2nd respondent dated 9-11-1992 certifying the petitioner as belonging to Scheduled Caste community, is declared as arbitrary and illegal and the respondents are directed to appoint the petitioner in accordance with the selection to the post of Junior Assistant in Group IV category for the recruitment to fill up backlog posts and the results of which were published in the daily press if he is otherwise eligible.

As the action of the respondents is wholly unjustified and as the respondents have not chosen to deny the allegations in the writ petition, this Court considers it appropriate to allow the writ petition with costs of Rs.10,000/- (Rupees Ten thousand only), of which Rs.5000/- (Rupees Five thousand only) shall be paid to the petitioner and Rs.5000/- (Rupees Five thousand only) to the Andhra Pradesh State Legal Services Authority, within a period of two weeks from the date of receipt of a copy of this order. A copy of this order shall also be marked to the Member Secretary, Andhra Pradesh State Legal Services Authority for information.

GODA RAGHURAM, J

19-12-2006
GRR

[\[1\]](#) (1997) 7 SCC 505